

HOUSE BILL 2101  
By Briley

AN ACT to amend Tennessee Code Annotated, Title 16, Chapter 2 and Title 40, Chapter 5, relative to the authority to create criminal court magistrates; the duties of such magistrates; and the procedures involving such magistrates.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 5, is amended by adding the following as a new part 3:

Section 40-5-301. The judges exercising criminal court jurisdiction in any judicial district may appoint one (1) or more suitable persons to act as criminal court magistrates. The criminal court magistrate shall be an attorney licensed to practice law in this state and shall serve at the pleasure of the judges appointing such magistrate. The compensation of a criminal court magistrate shall be fixed by the judges with the approval of the county legislative body or the appropriate governing body and paid from public funds of the county.

Section 40-5-302. The criminal court judges may direct that any case or class of cases shall be heard in the first instance by the criminal court magistrate in all cases wherein the criminal court has jurisdiction in the manner provided for

the hearing of cases by the criminal court; provided, however, that the criminal court magistrate shall, in no instance, conduct a trial by jury.

Section 40-5-303. The criminal court magistrate has the same authority as the criminal court judge to issue any and all process. The criminal court magistrate in the conduct of the proceedings has the powers of a criminal court judge including that of contempt.

Section 40-5-304. All proceedings in front of the criminal court magistrate shall be of record and shall be preserved by means of a court reporter.

Section 40-5-305. The criminal court magistrate's duties shall primarily consist of conducting arraignments, taking guilty pleas, conducting probation revocations and other routine matters as may, from time to time, be directed by the judges exercising criminal court jurisdiction. In all instances of any proceeding in front of the criminal court magistrate, the defendant and the defendant's attorney, if the defendant is represented, shall be afforded the opportunity to execute a consent form agreeing to the proceeding in front of the criminal court magistrate. If no consent is signed, then the criminal court magistrate shall refer the matter to the judge exercising criminal jurisdiction to conduct further proceedings. No defendant shall be punished in any way for refusing to sign a consent form, nor shall such refusal be held against any defendant in any manner whatsoever.

Section 40-5-306. Upon the conclusion of any proceeding in each case, the criminal court magistrate shall issue a recommended ruling either in writing or orally on the record. Any such ruling shall be considered to be immediately final for purposes of implementing the order; provided, however, any party may, within five (5) days of the ruling being made, excluding non-judicial days, file a request with the criminal court for a hearing. The criminal court judge may, on the

criminal court judge's own motion, order a rehearing of any matter heard before a criminal court magistrate and shall allow a hearing if a request for such hearing is filed. Alternatively, the criminal court judge may conduct a hearing de novo on any matter wherein a hearing is requested. Unless the criminal court judge orders otherwise, the recommended ruling of the magistrate shall be the decree of the criminal court pending a rehearing or a request for a hearing.

Section 40-5-307. If no hearing before a criminal court judge is requested, the findings, rulings and recommendations of the criminal court magistrate become the decree of the criminal court.

Section 40-5-308. In all instances where the criminal court magistrate imposes a judgment of conviction such as where the defendant enters a plea of guilt by waiving a jury or where an order for revocation of probation is entered, or where the magistrate enters a final order, then the judgment of conviction or final order shall be transmitted to the judge exercising criminal court jurisdiction who, in the absence of an appeal, shall then confirm the judgment by executing the judgment form or final order. The final order of the criminal court is, in any event, proof of such confirmation and also of the fact that the matter was duly referred to the criminal court magistrate. A party may appeal such final order of the criminal court judge as provided by the Tennessee rules of appellate procedure.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.